



GEORGE R. ROYER
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COPY MAILED

MAY 22 2008

In re Application of :
George R. Royer :
Application No. 10/798,803 :
Filed: March 12, 2004 :
Title of Invention: **SOLAR BATTERY** :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed April 14, 2008 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

A Preliminary Amendment was filed December 20, 2004. In response thereof, a Notice of Non-Compliant Amendment was mailed January 12, 2005. The Notice set a one month period for filing a compliant amendment. Failure to do so within one month would result in the filed preliminary amendment not being accepted. A Preliminary Amendment was filed January 27, 2005 and a second Notice of Non-Compliant Amendment was mailed March 17, 2005 which again advised that the Preliminary Amendment filed January 27, 2005 was non compliant. Again a one month period of reply was set. In addition to the Notice of Non-Compliant Amendment mailed March 17, 2005, a Notice of Fee Deficiency was mailed which advised that the Preliminary Amendment filed January 27, 2005 added two more independent claims and that therefore an additional \$200 was due within one month. As opposed to the Notice of Non-Compliant Amendment, the failure to comply with the Notice of Fee Deficiency would result in abandonment.

A Notice of Abandonment was mailed February 7, 2008 for failure to file a proper reply to the March 17, 2005 Office Letter.

Petitioner argues that failure to accept the preliminary amendment should not cause the basic application to be abandoned.

A review of the file reveals that since the January 27, 2005 preliminary amendment

which added two more independent claims and which was non-compliant and thus not entered because the applicant did not respond to the March 17, 2005 in a timely manner, petitioner was not required to pay the fees in response to the Notice of Fee Deficiency within the longer of one month or thirty days from mailing. In view thereof, the Notice of Abandonment mailed February 7, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to the Office of Patent Application Processing for further Pre-Examination Processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions